

NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
10 DHC 03SC

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THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

DIEDRA LYNN WHITTED, Attorney,

Defendant

ORDER  
ON SHOW CAUSE HEARING

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THIS MATTER came on for hearing on October 19, 2015 before a Hearing Panel of the Disciplinary Hearing Commission composed of Steven D. Michael, Chair, William O. King and Christopher R. Bruffey on the order to show cause filed on in this matter on September 1, 2015 pursuant to 27 N.C.A.C. 1B § .0114(x) of the Rules and Regulations of the North Carolina State Bar. The North Carolina State Bar was represented by G. Patrick Murphy and Defendant was represented by Irving Joyner. Based upon the evidenced presented at the hearing, the Hearing Panel hereby finds by clear, cogent and convincing evidence, the following:

#### FINDINGS OF FACT

1. Defendant, Diedra Lynn Whitted (hereinafter "Defendant"), was admitted to the North Carolina State Bar on September 11, 1987, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

2. On June 23, 2010, a Consent Order of Discipline (hereinafter "the 2010 Order") was entered against Defendant that imposed a three-year suspension of Defendant's license to practice law in North Carolina. The suspension was stayed for three years as long as Defendant complied, and continued to comply for the duration of the stay, with the conditions stated in the 2010 Order.

3. On November 30, 2012, Defendant and the State Bar entered into a Consent Order (hereinafter "2012 Order") which was effective upon its filing on November 30, 2012. The 2012 Order found Defendant was in violation of the 2010 Order by failing to timely comply with conditions 2(b), 2(c) and 2(d) of the 2010 Order. Conditions 2(b), 2(c) and 2(d) of the 2010 Order required Defendant, for the duration of the stay, to engage a practice monitor, meet with her monitoring attorney on a monthly basis, and ensure the monitoring attorney sent written quarterly reports to the Office of Counsel of the State Bar addressing the manner in which

Defendant was handling client matters and maintaining her trust account as required by the Rules of Professional Conduct.

4. The 2012 Order dissolved the stay of the suspension allowed in the 2010 Order and activated the three-year suspension imposed by the DHC in the 2010 Order. The DHC then stayed the three-year suspension for three (3) years, conditioned upon Defendant's compliance with the requirements stated in the 2012 Order.

5. Pursuant to paragraph 2(a) of the 2012 Order, Defendant was required, for the duration of the stay, to meet with her practice monitor on a monthly basis and ensure the monitoring attorney sent written quarterly reports to the Office of Counsel of the State Bar addressing the manner in which Defendant was handling client matters and maintaining her trust account as required by the Rules of Professional Conduct.

6. Defendant did not meet with her monitoring attorney during any month in 2014 and, as of October 15, 2015, had not met with her monitoring attorney at any time in 2015.

7. The last written quarterly report received by the Office of Counsel from Defendant's monitoring attorney was on October 15, 2013.

8. Pursuant to paragraph 2(a) of the 2012 Order, Defendant was required, for the duration of the stay, to pay membership dues, client security fund assessments, and comply with all continuing legal education ("CLE") requirements on a timely basis.

9. Defendant's 2014 membership dues and client security fund assessment was due on January 1, 2014 and past due if not paid by June 30, 2014. Defendant did not pay her 2014 membership dues and client security fund assessment until October 6, 2014, at which time she also paid a \$30.00 late fee.

10. Defendant's 2015 membership dues and client security fund assessment was due on January 1, 2015 and past due if not paid by June 30, 2015. Defendant did not pay her 2015 membership dues and client security fund assessment until September 1, 2015, at which time she also paid a \$30.00 late fee.

11. On August 7, 2015, a notice to show cause to the Administrative Committee of the North Carolina State Bar Council related to Defendant's mandatory membership dues was served on Defendant based on Defendant's failure to timely pay her 2015 membership fees.

12. Pursuant to 27 N.C.A.C. 1D § .1518, Defendant was required to complete 12 hours of approved CLE during 2014. Of the 12 hours, at least 2 had to be devoted to professional responsibility or professionalism.

13. On June 23, 2015, a notice to show cause to the Administrative Committee of the North Carolina State Bar Council related to Defendant's outstanding 2014 CLE requirements was served on Defendant based on Defendant's failure to timely comply with her 2014 CLE

requirements. As of June 12, 2015, Defendant had failed to complete 1 hour of ethics/professionalism, and 4.5 general hours of CLE credits for 2014.

14. Pursuant to paragraph 2(c) of the 2012 Order, for the duration of the stay, Defendant was required to provide the Office of Counsel with copies of monthly and quarterly reconciliations of her trust account.

15. The last quarterly trust account reconciliation that Defendant provided to the Office of Counsel was for the quarter ending March 2014. Defendant did not provide quarterly trust account reconciliations to the Office of Counsel for the last three quarters in 2014, or any quarter in 2015 as of the hearing date.

16. The last monthly trust account reconciliation that Defendant provided to the Office of Counsel was for the month of July 2014. Defendant did not provide monthly trust account reconciliations to the Office of Counsel for the months of August through December 2014, or for any month in 2015 as of the hearing date.

17. Pursuant to paragraph 2(d) of the 2012 Order, Defendant was required to complete (6) hours of CLE focused on trust account management within the first year of the stayed suspension, and to forward documentation of her compliance with this condition to the Office of Counsel on or before January 6, 2014. These hours were in addition to the CLE requirements contained in 27 N.C.A.C. 1D § .1518.

18. Defendant did not complete an additional 6 hours of CLE focused on trust account management within the first year of the stayed suspension. The Office of Counsel did not receive any documentation from Defendant showing that she complied with the condition that she complete the additional CLE hours.

Therefore, based on the foregoing Findings of Fact, the Hearing Panel makes the following:

#### CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Panel has jurisdiction over the Defendant and over the subject matter of this proceeding.

2. Defendant failed to comply with the following conditions of the stay of her suspension contained in the 2012 Order:

- a. By failing to meet with her practice monitor on a monthly basis in 2014 and 2015, and by failing to ensure that her monitoring attorney sent written quarterly reports to the Office of Counsel in 2014 and 2015 related to the manner in which Defendant was handling client matters and maintaining her trust account as required by the Rules of Professional Conduct, Defendant violated paragraph 2(a) of the 2012 Order;

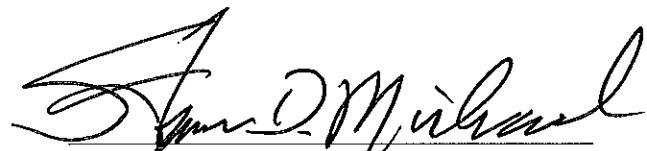
- b. By failing to timely pay membership dues and client security fund assessments for 2014 and 2015, and by failing to timely comply with CLE requirements for 2014, Defendant violated paragraph 2(a) of the 2012 Order;
- c. By failing to complete six (6) hours of CLE within the first year of the stayed suspension in addition to the CLE requirements contained in 27 N.C.A.C. 1D § .1518, and failing to forward documentation to the Office of Counsel on or before January 6, 2014 showing compliance with this condition, Defendant violated paragraph 2(d) of the 2012 Order;
- d. By failing to provide the Office of Counsel copies of monthly and quarterly reconciliations of her trust account during 2014 and 2015, Defendant violated paragraph 2(c) of the 2012 Order.

Based upon the foregoing Findings of Fact and Conclusions of Law the Hearing Panel enters the following:

ORDER

1. The stay entered by the 2012 Order on November 30, 2012 is dissolved and the three-year suspension is now activated. Defendant's license to practice law in the State of North Carolina is suspended for a period of three (3) years.
2. Defendant shall keep her address of record with the North Carolina State Bar current, accept all certified mail from the North Carolina State Bar, and respond to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication.
3. Defendant shall not violate any state or federal laws or any provisions of the Rules of Professional Conduct during the period of the suspension.
4. All costs of this action are taxed to Defendant. Defendant must pay the costs of this action within 30 days of service upon her of the statement of costs by the Secretary.

Signed by the Chair with the consent of the other Hearing Panel members, this the 2<sup>nd</sup> day of November 2015



Steven D. Michael, Chair  
Disciplinary Hearing Panel